

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHEN T. MITCHELL and
STEPHEN T. MITCHELL, P.C.,

Plaintiffs,

-against-

MATRICIA MOORE,
CONSOLIDATED EDISON, and
NEW YORK STATE WORKERS' COMPENSATION
BOARD,

Defendants.

07-CV-11301 (PAC)

MOTION
TO DISMISS

The defendant New York State Workers' Compensation Board ("Board") moves the Court as follows:

1. To dismiss the action with respect to the Board based on lack of jurisdiction over the subject matter of defendant Moore's New York workers' compensation claims. FRCP Rule 12(b)(1).

2. To dismiss the action with respect to the Board because it is moot and otherwise fails to state a claim against the Board upon which relief can be granted. FRCP Rule 12(b)(6).

3. To dismiss the action with respect to the Board under the Burford abstention doctrine, see Burford v. Sun Oil Co., 319 U.S. 315 (1943), because it seeks injunctive orders against the Board which would interfere with the Board's properly carrying out its duties under the New York Workers' Compensation Law, and for such other and further relief as the Court deems just.

Dated: New York, New York
January 14, 2008

S/ Steven Segall
Office of the Attorney General
of the State of New York
Attorney for Defendant
New York State Workers'
Compensation Board
120 Broadway, 26th Floor
New York, New York 10271
(212) 416-6138